

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

NW DEMOCRACY RESOURCES, INC., an)	
Oregon limited liability company,)	Case No.
)	
Plaintiff,)	COMPLAINT ((Breach of
)	Contract; Declaratory Judgment)
v.)	
)	Amount Prayed for: \$15,000
HOUSTON CASUALTY COMPANY, an)	Fee Authority: ORS 21.160(1)(b)
Oregon limited liability company,)	
)	JURY TRIAL DEMANDED
Defendant.)	
)	CLAIMS NOT SUBJECT TO
)	MANDATORY ARBITRATION

Plaintiff NW Democracy Resources, Inc. ("NWDR") alleges as follows:

1.

NWDR is an Oregon corporation with its principal place of business in Portland, Oregon.

2.

Defendant Houston Casualty Company ("the Insurer") is a Texas insurance company authorized to issue surplus lines policies in the state of Oregon. Its principal place of business is in Houston, Texas.

3.

The Insurer issued an errors and omissions insurance policy to NWDR bearing no. H713-102591 and effective December 31, 2013, to December 31, 2014 ("Policy").

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1 4.

2 On or about June 14, 2014, NWDR received a demand for money damages from a third-
3 party claimant, together with a draft arbitration petition ("Claim"), which NWDR promptly
4 tendered to the Insurer. The Insurer assigned claim no. MPL-13-03664 to NWDR's tender.

5 5.

6 On or about June 30, 2014, the Insurer denied coverage for the Claim and threatened to
7 file a declaratory judgment action against NWDR if NWDR did not withdraw its tender within
8 seven days.

9 6.

10 NWDR now files this action seeking defense coverage for the Claim. Under *N. Pacific*
11 *Ins. Co. v. Wilson Distributing Serv., Inc.*, 138 Or App 166, 175, 908 P2d 827 (1995), any
12 litigation over indemnity coverage for the Claim is presently premature, would put NWDR in an
13 untenable conflicted position, and would require abatement. NWDR reserves the right to amend
14 this Complaint to add claims for indemnity coverage as timely and appropriate.

15 FIRST CLAIM FOR RELIEF

16 Breach of Contract

17 (Duty to Defend)

18 7.

19 Paragraphs 1 through 6 are incorporated herein as if expressly alleged.

20 8.

21 Under the terms of the Policy, the Claim triggered the Insurer's duty to defend NWDR
22 and pay Claim Expenses, as defined in the Policy.

23 9.

24 The Insurer's denial of defense coverage constituted a breach of the Policy.

25 10.

26 All conditions under the Policy have been satisfied or otherwise excused.

11.

As a direct result of the Insurer's breach of the Policy, NWDR is being forced to defend itself against the Claim. NWDR is entitled to recover all defense expenses, the amount of which does not exceed \$15,000 to date. NWDR reserves the right to amend its alleged damages. NWDR is entitled to prejudgment interest at the statutory rate of 9% per annum on all defense expenses from the date payment is due on each invoice until judgment is entered.

12.

NWDR is entitled to attorney fees pursuant to ORS 742.061, which are less than \$15,000 as of the date of this filing.

SECOND CLAIM FOR RELIEF

Declaratory Judgment

(Duty to Defend)

13.

Paragraphs 1 through 12 are incorporated herein as if expressly alleged.

14.

An actual controversy now exists between NWDR and the Insurer. The Insurer has refused to provide NWDR with an insured defense; meanwhile, NWDR is being forced to defend itself against the Claim, which remains ongoing. NWDR requests a declaration that the Insurer is obligated to provide an insured defense to NWDR, including prospective defense expenses through final resolution of the Claim.

15.

NWDR is entitled to attorney fees pursuant to ORS 742.061, which are less than \$15,000 as of the date of this filing.

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JURY TRIAL DEMANDED

16.

Plaintiff demands a jury trial on its claims to the extent any questions of disputed material fact exist.

WHEREFORE, NWDR prays for judgment in its favor and against the Insurer as follows:

A. On its First Claim for Relief for Breach of Contract:

1. For principal damages in an amount of defense expenses to be proven at trial but not exceeding \$15,000 as of the date of this filing;
2. For prejudgment interest pursuant to ORS 82.010 at the statutory rate of 9% per annum from the date payment is due on each invoice for defense expenses until judgment is entered;
3. For attorney fees pursuant to ORS 742.061, which as of the date of this filing are not more than \$15,000; and
4. For such further relief as the court deems just and equitable.

B. On its Second Claim for Relief for Declaratory Judgment:

1. For a declaration that the Insurer owes NWDR prospective defense coverage for the Claim through final resolution;
2. For attorney fees pursuant to ORS 742.061, which as of the date of this filing are not more than \$15,000; and

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1 3. For such further relief as the court deems just and equitable.

2 DATED this 22nd day of July, 2014.

3 PARSONS FARNELL & GREIN, LLP

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